

REMARKS

Claims 1-56 were pending before the Office Action. Claims 1-56 were rejected in the Office Action. Claims 1, 14, 19, and 20 are amended in this response. Claims 1-56 are pending.

In the following, the Examiner's comments are included in bold, indented type, followed by the Applicants' remarks:

Double Patenting

Claims 1-56 rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,990,484 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because the grant of a second patent would give rise to an unjustified extension of the rights granted in the first patent.

Applicant disagrees. First, the Office Action has not presented a prima facie case of statutory-type double patenting. To establish a prima facie case of double patenting the Office Action must show that any variation between the inventions claimed in the claims under consideration and the earlier-issued patent claims would have been obvious to a person of ordinary skill in the art. *See In re Longi*, 759 F. 2d 887, 225 USPQ 645, 651 (Fed. Cir 1985). The Office Action lacks any such showing. In any case, the inventions claimed in the present application is not obvious over the invention claimed in the 6,990,884 patent. For example, claim 1 is directed to a method of analyzing a query that includes "one or more conditions **and one or more sub-queries**, the conditions including one or more connecting conditions that introduce the sub-query in the query, each of the sub-queries including zero or more conditions." Other independent claims highlight non-obvious variations in the inventions of the present application over the 6,990,884 patent. At least based on the distinctions highlighted by the claim language, the invention of the present application is non-obvious in light on the 6,990,884 patent.

Claim Rejections Under 35 USC § 101

Claims 1-3, 7, 9-12, 14, 15, 17-20, 21-23, 27, 29-31, 34, 35, 37, 38, 40, 45, 47-49, 52, 53, 55, and 56 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-

statutory subject matter. The claims recite a determining step that may also include a mental process, where the mental process does not produce a tangible result. Any claim that does not produce a tangible result is directed to a non-statutory subject matter.

Applicant disagrees. First, Applicant has amended claims 1, 14, 19, and 20 to make clear that the methods are computer implemented and therefore do not encompass mental processes. Applicant does not seek to protect any abstract ideas, only certain implementations of methods, computer programs, and database systems for analyzing a query to determine if the query is satisfiable. Such analysis is a useful, concrete and tangible result. As Applicant stated in the application, “[i]f the query optimizer of the database has the ability to check if a set of conditions is satisfiable, then such non-satisfiable queries could be answered immediately without accessing the data.” Specification, ¶ [0001].

The Office Action does not claim that analyzing a query to determine the satisfiability of the query is not a useful result. Rather, the Office Action focuses on the claim elements without considering the claim as a whole. That analysis is incorrect. According to Interim Guidelines for Examination of Patent Applications for Subject Matter Eligibility (“Interim Guidelines”): “In determining whether the claim is for a ‘practical application,’ the focus is not on whether the steps taken to achieve a particular result are useful, tangible and concrete, but rather that the final result achieved by the claimed invention is ‘useful, tangible and concrete.’” Interim Guidelines at 20. Each of the claims is drawn to statutory subject matter in that each of the claims is directed to the useful, concrete, and tangible result of analyzing a query. Applicant therefore requests that the rejections of claims 1-3, 7, 9-12, 14, 15, 17-20, 21-23, 27, 29-31, 34, 35, 37, 38, 40, 45, 47-49, 52, 53, 55, and 56 be withdrawn.

Claim Rejections Under 35 USC § 102

Claims 1-56 were rejected under 35 U.S.C. 102(e) as anticipated by U.S. Patent No. 6,990,484 B1 to Ghazal *et al.*

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be

overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Applicant is submitting an affidavit under 37 CFR 1.132 with this response to remove U.S. Patent No. 6,990,484 B1 as prior art under 35 U.S.C. § 102(e). Applicant requests that the rejections of claims 1-56 be removed.

SUMMARY

Applicant contends that the claims are in condition for allowance, which action is requested. Applicant does not believe that any fees are required for this response. Should any additional fees be required, Applicant requests that the fees be debited from NCR Deposit Account Number **14-0225** Order Number **069092.0203**.

Respectfully submitted,



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